

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 24-60865-CIV-DAMIAN

DONGGUAN SAIENCHUANGKE
TECHNOLOGY CO., LTD.,

Plaintiff,

v.

THE INDIVIDUALS, PARTNERSHIPS
AND UNINCORPORATED
ASSOCIATIONS IDENTIFIED ON
SCHEDULE “A,”

Defendants.

_____ /

MOTION TO QUASH PLAINTIFF’S SUBPOENA DUCES TECUM

The defendant, Zhangyueyuan, Furu Donghai, SHUHEYAN KSR, KYM
MLSMYXGS and LIN&BABAY Direct, (collectively “Defendants” hereafter), hereby move
to quash Plaintiff’s Subpoena Duces Tecum to Amazon and state as follows:

I. LEGAL STANDARD

Federal Rule of Civil Procedure 45(a)(4) provides:

(4) *Notice to Other Parties Before Service.* If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party.

Federal Rule of Civil Procedure 45(a)(4).

II. MEMORANDUM OF LAWS AND ARGUMENT

A. Plaintiff fails to serve a notice and a copy of the subpoena on Defendants prior to serving the subpoena on Amazon.

Rule 45(a)(4) of the Federal Rules of Civil Procedure provides that if a subpoena commands the production of documents or electronically stored information, then before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party. See Fed. R. Civ. P. 45(a)(4). On July 23, 2024, Plaintiff served a subpoena to Amazon requesting production of information or documents with respect to the Amazon operation of Defendants, without sending any notice to Defendants. *See* a copy of Plaintiff's Subpoena to Amazon, ECF No. 95-1.

B. Plaintiff may not seek discovery from any source at this stage of the case because the parties have not conferred pursuant to Rule 26(f).

Plaintiff's subpoena to Amazon also violates Rule 26(d), which states that "[a] party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order." Fed. R. Civ. P. 26(d).

III. CONCLUSION

For the ground above, Defendants respectfully request that the Court quash Plaintiff's subpoena to Amazon.

WHEREFORE, the defendant, Zhangyueyuan, Furu Donghai, SHUHEYAN KSR, KYM MLSMYXGS and LIN&BABAY Direct, by and through their attorney, request that this Court grant this Motion to Quash Plaintiff's Subpoena.

Dated: August 14, 2024

/s/ Jianyin Liu

Jianyin Liu, Esq.
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CERTIFICATE OF GOOD-FAITH CONFERRAL

I HEREBY CERTIFY that I conferred with the opposing party via email. The opposing party objects to the motion by stating that “[t]he Plaintiff will oppose the motion, as we have not received any production from Amazon regarding the subpoena. This lack of production causes no prejudice to the defendants,” which to my opinion, is very unprofessional.

/s/ Jianyin Liu

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent to all parties via CM/ECF on August 14, 2024.

/s/ Jianyin Liu